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Duluth and Winnipeg Railroad Company

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Recommended Citation

S. Rep. No. 206, 53rd Cong., 2nd Sess. (1894)

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1894.—Ordered to be printed.

Mr. MANDERSON, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 1458.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1458) entitled "A bill granting to the Duluth and Winnipeg Railroad Company a right of way through the Chippewa and White Earth Indian reservations in the State of Minnesota," having had the same under consideration report it back favorably, with amendments.

The bill, with proposed amendments, was submitted by your committee to the Secretary of the Interior, and has been returned with the approval of the Department, except in the matter of a few minor details, in which respect the bill has been amended to meet the views of the Interior Department.

The letter of the Secretary of the Interior and that of the Commissioner of Indian Affairs are attached hereto.

DEPARTMENT OF THE INTERIOR,
Washington, February 5, 1894.

SIR: I have the honor to acknowledge the receipt of your communication of 25th ultimo and accompanying S. 1458, "A bill granting to the Duluth and Winnipeg Railroad Company a right of way through the Chippewa and White Earth Indian Reservation, in the State of Minnesota."

In response thereto, I transmit herewith a copy of a communication of 2nd instant from the Commissioner of Indian Affairs to whom the papers were referred.

The Commissioner's report calls attention to the fact that as the road is already constructed to some point within the Chippewa Reservation, and the company desires an extension of its road, as mentioned in the bill, as it originally stood, the substitution of the word "Winnibigoshish" for "Chippewa" in the title and in line 7 of section 1 should not be made.

He also suggests that a better course of the road would be "westerly" instead of "northwesterly," and that the provision relating to station grounds be amended as to limit the size to 200 by 3,000 feet and in number to one station to every 10 miles of road, and concurs in the amendment to the first section, as made by the Senate Committee on Indian Affairs.

I concur in the views of the Commissioner and see no objection to the passage of the bill, if amended as suggested.

The bill is herewith returned.

Very respectfully,

HOKE SMITH,
Secretary.

Hon. C. F. MANDERSON,
U. S. S.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 2, 1894.

SIR: I am in receipt, by your reference of the 27th ultimo for report, of a communication from Hon. Charles F. Manderson, with which he incloses a copy of Senate bill 1458, being a bill granting to the Duluth and Winnipeg Railroad Company a right of way through the Chippewa (Winnebagoshish) and White Earth Indian reservations, in the State of Minnesota. Senator Manderson requests an opinion from the Department as to whether or not there are objections to the passage of the bill.

In reporting on the bill, I have the honor to inform you that, by act of Congress approved October 17, 1888 (25 Stat., 558), the Duluth and Winnipeg Railroad Company was granted a right of way for the extension of its line of road through the Fond du Lac Indian reservation in Minnesota, as well as the right to construct its road, commencing at Duluth, and running by the most practicable route, to a point at or near Grand Rapids, on the Mississippi River.

Under the provisions of this act the company constructed its road through said Indian reservation and this office is unofficially advised that the road has been constructed under the act to and beyond Grand Rapids.

By act of Congress approved March 2, 1889 (25 Stats., 1010), the company was granted a right of way through the Leech Lake and White Earth Indian Reservation, in Minnesota, commencing at Duluth and running by the most practicable route to some point on the international boundary line between the Lake of the Woods and the Red River of the North. This act provides that the right of way therein granted shall be forfeited by said company unless the road is constructed through the reservations mentioned within three years from the date of its passage.

No maps of definite location of said lines as granted by this act were ever filed in this office for approval. The right to construct, as will be seen, has now lapsed.

You are also informed that by act of Congress approved June 2, 1890, (26 Stats., 126), the company was granted a right of way for the extension of its road through the Winnebagoshish, Cass Lake, White Oak Point, and Red Lake Indian reservations, in Minnesota. The maps of definite location of the road under this act were approved by the Department on October 23, 1889. This office is unofficially informed that the company has constructed its line of road under this act to some point within the Chippewa Reservation. It is to be observed that the said act of Congress does not grant the company a right of way through the said Chippewa Reservation. This was probably a mere oversight at the time of the passage of the act, under the impression that the Winnebagoshish Reservation covered all the territory in this region through which the company desired a right of way. The company's right to construct its line of road by this route will expire by the terms of the act on June 2, 1895.

The company now seeks by the bill in question to obtain a right of way for the extension of its road, and for a telegraph and telephone line through the Chippewa and White Earth reservations in Minnesota, commencing at some point on its already constructed line in said State and running in a general northwesterly direction, by such route as shall be deemed advisable, to some point on the western boundary line of the said State, or to some point on the northern boundary line thereof, between the Red River of the North and the Lake of the Woods, or to both such points; such right of way to be 50 feet in width on each side of the central line of the road. Said company also to have the right to take from the lands adjacent to the line of the road, material, stone, and earth necessary for the construction of said road; also ground adjacent to such right of way for station buildings, depots, machine shops, side tracks, turn-outs and water stations, not exceeding in amount 300 feet in width by 3,000 feet in length for each station, to an extent not exceeding one station for each 6 miles of road within the limits of said reservations.

It is to be observed that the word "Chippewa" has been stricken out both in the title and in line 7 of section 1 of the bill, and the word "Winnebagoshish" substituted therefor. By informal conference with Senator Washburn, who introduced the bill, it is learned, as stated above, that the road is already constructed to some point within the Chippewa Reservation; also that the company desires an extension of its line of road as mentioned in the bill as it originally stood—that is to say, through the Chippewa and White Earth reservations. It would seem, therefore, that the substituted amendments in the title and in said line 7 should not be made.

It is suggested, however, that in extending the road through the Chippewa Reservation and thence through the White Earth Reservation, a better description of the general course of the road would be "westerly" instead of "northwesterly." It is accordingly suggested that the words "westerly or" be inserted before the word "northwesterly" in line 10 of section 1 of the bill, so that said line 10 will read, "in a general westerly or northwesterly direction by such route as shall be."

Your attention is also invited to the fact that the bill provides for granting the company ground for station purposes, not to exceed 300 feet in width by 3,000 feet in length for each station, to an extent not exceeding one station for each 6 miles of road within the limits of said reservations. This is a little unusual, both as respects the size and number of station grounds. Most, if not all, of the recent acts granting railroad companies rights of way through Indian reservations limit the size of station grounds to 200 feet in width by 3,000 feet in length and in number to one station for every 10 miles of road. It is, therefore, suggested that the bill should be amended by striking out the word "three" before the word "hundred," in line 21 of section 1 of the bill, and inserting the word "two" in lieu thereof, and that the word "six" before the word "miles," in line 23 of section 1 of the bill, be stricken out and the word "ten" be inserted in lieu thereof.

Attention is also invited to the fact that the Senate Committee on Indian Affairs suggests the following amendment to be inserted at the end of section 1 as the bill now stands:

"Provided, That no part of such lands herein granted shall be used except in such manner and for such purposes only as are necessary for the construction and convenient operation of said railroad line, and when any portion thereof shall cease to be used such portion shall revert to the nation or tribe of Indians from which the same shall be taken."

In this suggested amendment this office concurs. The bill seems to sufficiently protect the rights of the Indians, both in their individual and tribal capacity, and, so far as this office is concerned, if it shall be amended as herein suggested, there appears to be no objection to its passage.

Senator Manderson's letter and the bill are returned herewith.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

The SECRETARY OF THE INTERIOR.

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